

DIRECT TESTIMONY ON REMAND

of

MIKE OSTRANDER

Accountant
Accounting Department
Financial Analysis Division
Illinois Commerce Commission

Proposed General Increase in Water and Sewer Rates

Illinois-American Water Company

Docket No. 09-0319 On Remand

March 6, 2013

1 **Witness Identification**

2 **Q. Please state your name and business address.**

3 A. My name is Mike Ostrander. My business address is 527 East Capitol Avenue,
4 Springfield, Illinois 62701.

5 **Q. By whom are you employed and in what capacity?**

6 A. I am currently employed as an Accountant in the Accounting Department of the
7 Financial Analysis Division of the Illinois Commerce Commission ("ICC" or
8 "Commission").

9 **Q. Please describe your background and professional affiliation.**

10 A. I received a Bachelor of Business Administration in Accounting from the
11 University of Notre Dame. I am a Certified Public Accountant and a Certified
12 Internal Auditor. I joined the Commission Staff ("Staff") in March 2006. Prior to
13 joining the Commission, I was employed for three years as a staff accountant in
14 public accounting, seventeen years in private industry with positions ranging from
15 accounting manager to corporate officer encompassing all areas of accounting
16 and internal auditing, and three years as controller of a law firm and software
17 company.

18 **Q. Have you previously testified before this Commission?**

19 A. Yes, I have testified before the Commission on several occasions.

20 **Purpose of Testimony**

21 **Q. What is the purpose of your testimony?**

22 A. The purpose of my testimony is to present Staff's position on the justness and
23 reasonableness of the rate case expenses requested by Illinois-American Water
24 Company ("Illinois-American," "IAWC" or "Company") in the underlying rate case
25 in conformance with the Opinion of the First District of the Illinois Appellate Court
26 mandated back to the Commission December 9, 2012 in the *People ex rel. Lisa*
27 *Madigan v. Ill. Commerce Comm'n*, 99 2011 IL App (1st) 101776, ¶ 50 (1st Dist.
28 Dec. 9, 2011) ("*Madigan*") and Section 9-229 of the Public Utilities Act ("Act").

29 **Staff Position**

30 **Q. Has the Staff position on the justness and reasonableness of the rate case**
31 **expenses requested in this case changed since the Commission Order was**
32 **entered on April 13, 2010?**

33 A. Only slightly. I am proposing a disallowance of \$151 in this phase of the
34 proceeding to disallow the cost of meals. This adjustment is immaterial to the
35 total amount requested by the Company of \$2.339 million of rate case expenses
36 for this proceeding¹.

37 Since I was not assigned to the original proceeding and the Staff witness that
38 reviewed the justness and reasonableness of rate case expenses is no longer
39 with the Commission, I reviewed the Company's support for its rate case

expenses that had been included in the record supporting the April 13, 2010 Order entered by the Commission (“2010 Order”) and the additional evidence attached to the Direct Testimony of Richard Kerckhove as IAWC Exhibit 1.0 – RM. Staff also conducted its own investigation through additional Staff data requests sent and responded to since the 2010 Order was entered.

In addition to my review of the Company’s support for its rate case expenses, Staff witnesses Chip Boggs and Sheena Kight-Garlich are submitting testimony that no adjustment is necessary for the specific costs that each reviewed.

Q. Please describe your adjustment of \$151, for the cost of meals, to the amount of rate cases expenses requested for recovery by the Company.

A. I am proposing the disallowance of the \$151 cost of food and beverages billed by outside attorneys. Such miscellaneous costs are not incidental to the preparation and litigation of a rate case and should not be recovered in rates. However, due to the immateriality of the proposed adjustment, there would be little if any impact to the amount of rate case expenses recovered or the test year amortization amount.

Q. Section 9-229 of the Public Utilities Act (“Act”) requires the Commission to specifically assess the justness and reasonableness of any amount expended by a public utility to compensate attorneys or technical experts to prepare and litigate a general rate case filing in the Commission’s final

¹ IAWC Ex. 1.01-RM.

**order. (220 ILCS 5/9-229) What documentation was submitted by the
Company to satisfy the requirements of Section 9-229?**

A. Staff reviewed the documentation identified below, which is attached to IAWC
witness Rich Kerckhove's direct testimony on Remand²:

IAWC Ex. 1.03-RM	Legal Fees and Expenses Support
IAWC Ex. 1.04-RM	Revenue Requirement Support
IAWC Ex. 1.05-RM	CPA Review Support
IAWC Ex. 1.06-RM	Rate of Return Consultant Support
IAWC Ex. 1.07-RM	Demand Study Support
IAWC Ex. 1.08-RM	Cost of Service Study Support
IAWC Ex. 1.09-RM	Service Company Study Support

**Q. What is the Staff position on the justness and reasonableness of the rate
case expenses requested in this case for the Demand Study and Cost of
Service Study?**

A. Staff witness Christopher Boggs has reviewed the documentation supporting the
costs attributable to the testimonies of outside consultant J. Rowe McKinley of
Black & Veatch Corporation regarding the Companies' Demand Study and
outside consultant Paul H. Herbert of Gannett Fleming, Inc. regarding the

² IAWC Exhibit No. 1.00-RM.

Companies' Cost of Service Study. He concluded that no adjustments were necessary.³

Q. What is the Staff position on the justness and reasonableness of the rate case expenses requested in this case for the Rate of Return Consultant?

A. Staff witness Sheena Kight-Garlich has reviewed the documentation supporting the costs attributable to the review of the Companies' cost of common equity performed by Pauline Ahern of AUS Consultants. She concluded that no adjustments were necessary.⁴

Q. What is the Staff position on the justness and reasonableness of the rate case expenses requested in this case for legal fees and expenses and the remaining technical experts?

A. I have reviewed the remaining documentation, not reviewed by Staff witnesses Boggs and Kight-Garlich, which supports the actual costs incurred through October 31, 2009 and the methods to determine the projected costs. As described above, I reviewed the invoices provided to me by the Company which detailed 9-229 expenses by attorneys and outside technical experts. In my opinion, except for the *de minimus* adjustment from above, the amounts appear to be adequately supported by documentation and just and reasonable.

Q. Do you have any other observations regarding legal fees and expenses?

³ Staff Ex. 15.0, p. 2.

⁴ Staff Ex. 16.0, p. 2.

97 A. With respect to legal fees and expenses, while I do not address the propriety of
98 specific invoice items, I note the following:

99 1. The law firms that submitted invoices have an extensive history of
100 practicing before this Commission;

101 2. Similarly, the individual attorneys whose hourly rate I have examined
102 have, in most cases, significant experience practicing before the
103 Commission; and

104 3. The hourly rates charged by the attorneys in question are consistent with
105 hourly rates approved by the Commission in other similar rate cases.

106 I am advised by counsel that these facts bear upon the issue of whether the
107 hourly rates and billings are reasonable. Based upon these facts, it is my
108 opinion that the requirements of Section 9-229 are satisfied.

109 **Staff Recommendation for the Commission**

110 **Q. Do you have a recommendation for the Commission as to the language that**
111 **should be included in the remand order?**

112 A. I recommend that the Order in this proceeding expressly address the basis for its
113 finding that the amounts expended by IAWC to compensate attorney and
114 technical experts to prepare and litigate Docketed No. 09-0319 are just and
115 reasonable. Thus, the Commission conclusion should discuss the following
116 issues as to justness and reasonableness:

- 117 - the increase in rate case expenses in Docket No. 09-0319 from the prior case;
- 118 - the cost of the Service Company Study;
- 119 - the detail supporting the amount of projected rate case expenses;
- 120 - the tasks performed by each attorney and technical expert;
- 121 - the time expended by each attorney and technical expert; and
- 122 - the hourly rate charged by each attorney and technical expert.

123 **Q. What do you recommend the Commission conclude about the justness and**
124 **reasonableness of the Company's requested rate case expenses?**

125 A. I recommend the Commission specifically state a finding as follows:

126 The Commission has considered the costs expended by the
127 Company to compensate attorneys and technical experts to
128 prepare and litigate this rate case proceeding and assesses that
129 the amounts included as rate case expenses in the revenue
130 requirement of \$2.339 million for Illinois-American are just and
131 reasonable.

132 **Conclusion**

133 **Q. Does this end your prepared direct testimony on Remand?**

134 A. Yes.